

House File 636 - Reprinted

HOUSE FILE 636
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 438)

(As Amended and Passed by the House March 16, 2023)

A BILL FOR

- 1 An Act relating to consideration of the educational setting of
- 2 a minor child in a child custody proceeding.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 598.1, Code 2023, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 2A. "*Educational setting*" means a public
4 school, an accredited nonpublic school, competent private
5 instruction or independent private instruction in accordance
6 with the provisions of chapter 299A, or any other method of
7 educational instruction that satisfies the compulsory education
8 requirements of chapter 299.

9 Sec. 2. Section 598.10, subsection 1, Code 2023, is amended
10 by adding the following new paragraph:

11 NEW PARAGRAPH. c. If the parents are in disagreement over a
12 minor child's educational setting, the court shall consider the
13 educational setting of the minor child in making a temporary
14 order for custody. There is a rebuttable presumption that
15 it is in the best interest of the minor child to remain in
16 the educational setting in which the minor child was enrolled
17 during the immediately preceding school year. The presumption
18 is rebuttable only by a preponderance of the evidence that such
19 educational setting is not in the best interest of the child.

20 Sec. 3. Section 598.41, Code 2023, is amended by adding the
21 following new subsections:

22 NEW SUBSECTION. 4A. If joint legal custody is awarded
23 to both parents, but the parents are in disagreement over a
24 minor child's educational setting, the court shall consider,
25 and include a provision in the custody order regarding, the
26 educational setting of the minor child. There is a rebuttable
27 presumption that it is in the best interest of the minor child
28 to remain in the educational setting in which the minor child
29 was enrolled during the immediately preceding school year.
30 The presumption is rebuttable only by a preponderance of the
31 evidence that such educational setting is not in the best
32 interest of the child.

33 NEW SUBSECTION. 10. All orders relating to custody of a
34 child shall specify the rights and responsibilities of each
35 parent relative to the minor child's educational setting.

1 The order shall, at a minimum, specify a parent's rights
2 and responsibilities regarding physical access to the child
3 during the school day; access to records involving the health,
4 education, and welfare of the child; decision-making authority
5 including instances when parental consent or authorization is
6 required; and the removal of the child from the premises of the
7 educational setting during school hours. However, the order
8 shall not require that a parent have physical access to a child
9 during the school day or be allowed to remove the child from
10 the premises of the educational setting during school hours
11 if the child is being provided competent private instruction
12 or independent private instruction in accordance with chapter
13 299A. Any parent with legal custody of the child shall provide
14 a copy of the order to the educational setting and to the
15 school district of the child to whom the order applies.